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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/677,332

10/03/2003

Alain Franchi

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12/12/2006

PATENT LEGAL STAFF
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EXAMINER

WOODS, ERIC V

ART UNIT

PAPER NUMBER

2628

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|--|--------------------------------------|---------------------------------------|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | Application No. 10/677,332 | Applicant(s) FRANCHI ET AL. | |
| | Examiner Eric Woods | Art Unit 2628 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.


 ULKA CHAUHAN
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's construction of claim 1 does not appear to be valid. Note page 1 of Remarks. Clause 1 of claim 1 recites that the base graphic data is rasterized to provide a base graphics raster, wherein a graphic object (inclusive of said selected graphic object to be highlighted) is contained therein. Now, the claim is written in such a way that the second clause of the claim "providing selection graphic data including a graphic object *corresponding to the selected graphic object*", wherein the "one graphic object" is rasterized. Now, if the first time the recited graphic object is presented is AFTER IT ALREADY HAS BEEN RASTERIZED, applicant cannot maintain that selection graphic data corresponding to the graphic object has not been rasterized, since the recited first graphic object is not mentioned until it has already been rasterized. Applicant is impermissibly importing limitations from the specification (In re Van Geuns). The claims are construed based on their language. Whether or not the claims are written in a manner that renders them nonsensical, nonfunctional, and/or indefinite is *not* the question at issue here, with respect to the construction of specific claim(s). While the Office gives as much leeway as possible during construction, as pointed out above, the claim is written in such a manner that the first graphical object is only referenced after it has been rasterized. Now, the Kinoe et al reference very clearly recites a CAD system that contains a 3D model. This 3D model has various components, wherein they are maintained in a data structure in memory that is clearly *not* a simple 2D data structure, but rather a collection of at least 3D points (e.g. edges and nodes) and their connections, and it is clear that each part is a separate entity. Now, in order for the system of Kinoe to function, the three-dimensional model must be mapped (world coordinates) to the viewport (screen space coordinates) and rasterized. The highlighting operation of Kinoe clearly involves changing the state of at least one part via an attribute modification in at least a property table, wherein the parts are extracted and rasterized. This results in a change in the part (e.g. selection graphic). Applicant is overlooking the fact that the Long et al reference teaches that data is held in memory in elements 16, 17, 19, and 20, wherein these are all referred to as "stores" initially and then later as "framestores" in the next two paragraphs with reference to various of the stores (4:61-5:1, as an example). A "framestore" is the same as a "frame buffer", which is well known in the art to hold RASTER DATA. This was made very clearly in the Final Office Action. Examiner has repeatedly and extensively documented the level of skill in the art and has proven what was well known in the art at the time the invention has made with respect to the common knowledge and understanding of where rasterization occurs in the process and that storing data in memory in the manner of Long is manipulating 2D raster data, wherein that reference was added to make such explicit. In summation, applicant's claim construction is incorrect; even assuming arguendo that it were, the Kinoe reference deals with graphical objects in a pre-rasterization format (since the display processing part extracts such objects) and then rasterizes them, wherein the user must clearly select an object in some manner to cause it be highlighted, and the stores of Long clearly store graphical data, which therefore is raster data, as has been extensively documented. .